

the interest for



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert K. Carbin

June 11, 1984

The Honorable Jane Dee Hull Arizona State Representative State Capitol, House Wing 1700 West Washington Phoenix, Arizona 85007

Re: I84-082 (R83-186)

Dear Representative Hull:

We are writing in response to your inquiry regarding certain ranching units which are scheduled to be acquired by the Navajo Tribe pursuant to the Navajo-Hopi Relocation Amendment Act of 1980 (Pub. L. 96-305, 94 Stat. 929) (the "Act"). That Act attempts, in part, to resolve the long-standing dispute between the Hopi and Navajo Indians with regard to their respective rights of occupation of certain lands within their reservations by providing for certain relocations into new areas.

You have asked (1) whether the subject lands will become tribal trust lands exempt from state taxation, (2) whether the southern boundaries of the subject lands will become the new southern boundary of the Navajo Reservation, (3) whether the Navajo Tribe's police powers will apply in the subject areas in the same way that they now do on the reservation, and (4) whether the State of Arizona will be compensated in any way by payments in lieu of taxes.

The provisions of the Act specify, in pertinent part:

(e)(1) Lands partitioned pursuant to this Act, whether or not the partition order is subject to appeal, shall be subject to the jurisdiction of the tribe to whom partitioned and the laws of such tribe shall apply to such partitioned lands.

(Emphasis added) 94 Stat. at 930.

The Hon. Jane Dee Hull June 11, 1984 Page 2

In answer to your first question, the lands that are thus acquired will become tribal trust lands and therefore not subject to state taxes. The Act specifically provides that the lands partitioned shall be transferred without cost to the Navajo Tribe of Indians and that ". . . title thereto shall be taken by the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation." 94 Stat. at 930.

25 U.S.C. § 459(e) further provides in pertinent part:

All property conveyed to tribes . . . shall be exempt from Federal, State and local taxation so long as such property is held in trust by the United States.

As to your question concerning the southern boundaries of these ranches, we note that once these lands are acquired by the tribe, they will become the new southern boundary of the Navajo Reservation. See, Publ. L. 96-305, 94 Stat. at 931; cf. Battese v. Apache County, 129 Ariz. 295, 630 P.2d 1027 (1981) (property owned by Navajo tribal members obtained from non-Indian predecessors within the present boundary of the Navajo reservation was exempt from state ad valorem taxation under rule that states do not have authority to impose taxes on lands comprising Indian reservations). The policing power that the tribe now holds on the existing reservation will be extended to include the newly-acquired land once it becomes part of the reservation. Montana v. United States, 450 U.S. 544, (1981).

The answer to your last question concerning whether the State would be "compensated in any way by payments in lieu of taxes" can only be determined on a case by case basis. Pub. L. 96-305 provides, in part, that payments in lieu of taxes ("PILT") payments being made to any state or local government pursuant to 31 U.S.C. §§ 1601 et seq. (now recodified at 31 U.S.C. §§ 6901 et seq.) on certain lands transferred under the Act shall continue to be paid as if the transfer had not occurred. These "PILT" payments are made to the states as partial compensation for the removal of various federal lands from the tax rolls. See, Meade Township v. Andrus, 695 F.2d 1006 (6th Cir. 1983). If such lands were transferred pursuant to Pub. L. 96-305 and became part of the Navajo Reservation, the "PILT" payments would continue to be made unless Congress further amended the law.

As to transferred lands other than those subject to "PILT" payments, a determination of State eligibility for "in lieu" payments would depend upon a number of factors including,



The Hon. Jane Dee Hull June 11, 1984 Page 3

but not necessarily limited to, location of the particular parcel, tax rate, and valuation. A definitive answer is, at this time, highly speculative and would vary according to the facts surrounding each parcel transferred.

Sincerely,

BOB CORBIN

Attorney General

BC:SMS:pd

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DISTRICT IS



Arizona House of Representatives Phoenix, Arizona 85007

December 19, 1983

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R83- 186

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The Honorable Robert Corbin Attorney General 1275 West Washington Phoenix, AZ

Dear Mr. Corbin:

Attached is a copy of a letter from the State Land Department which indicates that the Navajo Tribe will shortly acquire nine ranching units of what is now mixed private, state and federal land. In regards to this letter, several questions are presented concerning the exact relationship these lands will occupy vis a vis the State of Arizona after the relocation project is complete. The questions are as follows:

- Will the lands thus acquired become tribal trust lands and therefore not subject to state taxes?
- Will the southern boundaries of these of these ranches become the new southern boundary of the Navajo Reservation?
- Will the reservation have policing authority inside these lands equal to that the tribe has now on the reservation?
- 4. Will the State be compensated in any way by payments in lieu of taxes?

Inasmuch as the status of these lands may impact on legislation which may be considered in the next session of the Legislature, could you please review this as soon as possible.

> Sincerely, ins the Thele!

JANE DEE HULL

State Representative

JDH/dc attachment

Gerald L. Smith, Deputy Commissioner

State Land Department



Arizona State Land Bepartment



1624 WEST ADAMS PHOENIX, ARIZONA 85007

November 16, 1983

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The Honorable Jane Dee Hull House of Representatives State Capitol Phoenix, AZ 85007

Ms. Hull:

The following is the information you requested regarding the Navajo-Hopi Relocation. The Navajo-Hopi Relocation Project involves nine units, seven of which contain approximately 47,000 total acres of State land:

1.	Wallace Ranch	4,280	approx.	acres
2.	Kelsey Ranch	1,280	11	11
3.	Spurlock Ranch	16,400	. 11	11
4.	Fitzgerald Ranch	3,900	18	11
5.	Roberts Ranch	6,120	. 11	11
6.	Bar N	10,960	14	Ħ
7.	Chambers Ranch	4,480	11	rt .
8.	Town of Navajo			
9.	Chiefton Hotel			

- Lynch Ranch (participation unconfirmed)

To the best of our knowledge, lands acquired will become tribal trust lands and not subject to taxes; and the state will not be compensated in any way for payments in lieu of taxes.

If you have any further questions, please do not hesitate to call.

Cordially,

Deputy Commissioner

GLS/GTP/dhs

Attachment: Map